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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,536	02/05/2002	Alan F. Savicki	492.214	4090

27023 7590 11/29/2002

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EXAMINER

BRITTAINE, JAMES R

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/049,536	SAVICKI, ALAN F.	
	Examiner	Art Unit	
	James R. Brittain	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 - 2a) This action is FINAL. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-14 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) _____ is/are allowed.
 - 6) Claim(s) 1-14 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 February 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kettner et al. (US 5356222).

Kettner et al. (Figures 1-7) teaches closure device, comprising: first and second fastening strips 218, 220, the fastening strips have a longitudinal X axis, a transverse Y axis and a vertical Z axis, the fastening strips are arranged to be occluded over a predetermined length in the X axis, the first fastening strip includes a first portion with a first color 29, the fastening strip includes a second portion with a second color 27, the first color 29 is not visible when viewed in the Z axis through the webs 28, 30 when the fastening strips are occluded because only the second color 27 is visually observable

through the webs 28, 30 (col. 5, lines 18-30). When the strips are improperly mated, both first and second colors 27, 29 are visually observed through each web. Applicant has not sufficiently defined the Y and Z-axes so as to define over this orientation. The term "vertical" only has meaning relative to how the device is held and the closure of Kettner et al. can be held so that it has the axis described oriented so as to be vertical. It is suggested that applicant define the Y and Z-axes with more clarity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kettner et al. (US 5356222) in view of Pope (US 5140796).

Kettner et al. (Figures 1-7) teaches closure device, comprising: first and second fastening strips 218, 220, the fastening strips have a longitudinal X axis, a transverse Y axis and a vertical Z axis, the fastening strips are arranged to be occluded over a predetermined length in the X axis, the first fastening strip includes a first portion with a first color 29, the fastening strip includes a second portion with a second color 27, the first color 29 is not visible when viewed in the Z axis through the webs 28, 30 when the fastening strips are occluded because only the second color 27 is visually observable through the webs 28, 30 (col. 5, lines 18-30). When the strips are improperly mated, both first and second colors 27, 29 are visually observed through each web. Applicant

has not sufficiently defined the Y and Z-axes so as to define over this orientation. The term "vertical" only has meaning relative to how the device is held and the closure of Kettner et al. can be held so that it has the axis described oriented so as to be vertical. The difference is that a slider is not included. However, Pope (Figures 1, 2) teaches that it is well known to supply a slider 15, 16, 17 to aid in securing of the fastening strips. It would have been obvious to modify the fastener of Kettner et al. so that a slider is included to facilitate closing the fastening strips in view of Pope (figures 1, 2) teaching that it is well known to supply a slider 15, 16, 17 to aid in securing of the fastening strips.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Gaible et al. (US 5397182) and Bois (WO 98/57863) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain
Primary Examiner
Art Unit 3677

JRB
November 25, 2002